THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 23982 of 2006.

DATED: 18-11-2006

Between:

Dara Vengaiah @ Yangaia

…petitioner

and

The District Collector, Nellore,
Nellore District and others.

…Respondents.

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.No. 23982 of 2006.

Oral order:

The writ petition is filed on an apprehension that the respondents would assign the dry land in an extent of Ac.3-77 cents in Sy.No.292/2 situated at Perikipalyam Village, Ganugapenta Post, Kondapauram Mandal, Nellore District to other beneficiaries notwithstanding an earlier assignment in favour of the petitioner, grant of D-form patta and other indicia of the petitioner's legitimate title and occupation of the land in question. As a sequence of such unlawful assignment by the respondents, the petitioner apprehends that he would be dispossessed unlawfully. According to the petitioner, no notice has been issued to him for cancellation of the assignment in his favour nor any proceedings have been initiated against him for cancellation of the assignment. The petitioner's apprehensions are based on two lists said to have been prepared by the 3rd respondent setting out, *inter alia*, a list of beneficiaries for assignment of lands in Sy.No.292/2 of a total extent of

Ac.6-28 cents in favour of five individuals. It is asserted that Sy.No.292/2 consists of only Ac.6-28 cents and out of it an extent of Ac.3-77 cents has earlier been assigned to the petitioner and the assignment is subsisting.

In the above mentioned context, it is apparent that the singular grievance of the petitioner is as to the potential unlawful conduct of criminal trespass by the respondents. If the petitioner has a valid and subsisting title including by way of D-Form patta and if he is in possession of the land in question, the petitioner cannot be dispossessed except in accordance with the authority of law and by

following the appropriate procedure. Any action by the respondents including the District Collector, Nellore to dispossess the petitioner except in accordance with the process under law will lay open the respondents to criminal action including prosecution for criminal trespass.

The petitioner has available a plurality of remedies. He may complain against any person, including a person in public office, for abusing public office or under the colour of such office, proceeding to dispossess a citizen of his property without following the due process of law. Such a complaint could be made to the jurisdictional police station which would be obligated to register the complaint, if it makes out information as to a cognizable offence and such person including a public officer is liable to be restrained from committing the offence and proceeded against. The petitioner may also seek injunctive relief before the civil court of competent jurisdiction and if warranted by the exigencies of the circumstances, may seek dispensing with the period of notice under Section 80 of the Code of Civil Procedure, 1908 as well. The petitioner could also resist the criminal trespass by employing adequate countervailing force, by way of the right of private defence of his property.

In the context of the availability of several remedies mentioned above, this court is not inclined to exercise jurisdiction under Article 226 of the Constitution of India.

The writ petition is dismissed. The petitioner is at liberty to pursue any of the available remedies mentioned above. No costs.

GODA RAGHURAM, J

18th November, 2006.
Note:
Issue copy as soon as possible.
/B.O/
GRR